## IN THE UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF GEORGIA VALDOSTA DIVISION

UNITED STATES, :

Plaintiff,

:

v. : CASE NO: 7:21-CR-036 (WLS)

MARCUS Q. WALDEN,

Defendant.

:

## **ORDER**

Before the Court is Defendant's Motion Requesting Subpoena Be Issued (Doc. 41) ("Subpoena Motion") to Timothy Saviello, Defendant's previous attorney in this case, compelling Mr. Saviello to appear at an evidentiary hearing scheduled for Wednesday, January 11, 2023, at 2:00 p.m. in the Federal Courthouse in Albany, Georgia. Although Defense Counsel refers twice to a hearing on a 2255 motion, he apparently intended to request Mr. Saviello's appearance for the evidentiary hearing on Defendant's motion to withdraw guilty plea (Doc. 38). This case is based on a criminal indictment filed against Defendant rather than a civil case filed on behalf of Defendant under 28 U.S.C. § 2255.

Defense Counsel moves this Court for a subpoena as Mr. Saviello "is expected to provide testimony relevant to issues in Defendant's 2255 motion." (Doc. 38.) Again, the Court assumes counsel intended to refer to Defendant's motion to withdraw guilty plea. Defense Counsel further notes that Defendant is indigent and unable to pay the witness fees that would otherwise be incurred. *See* Fed. R. Crim. P. 17(b).

As Defense Counsel has shown that the requested witness is necessary for an adequate prosecution of Defendant's motion to withdraw guilty plea, his Subpoena Motion (Doc. 41)

<sup>&</sup>lt;sup>1</sup>Defense Counsel requests the Court issue a subpoena to Mr. Saviello for "a 28 U.S.C. 2255 evidentiary hearing" scheduled on the 11th of January 2023, . . . ." (Doc. 41 at 1). Defense Counsel further states that "[a]s his former attorney, Timothy Saviello is expected to provide testimony relevant to issues in Defendant's 2255 motion." (*Id.* at 2.)

is **GRANTED**. Accordingly, the Court directs that the Clerk of Court or his deputy, issue a subpoena for Timothy Saviello to appear and testify at the hearing in Albany on Wednesday, January 11, 2023, at 2:00 p.m..

**SO ORDERED**, this 9th day of January 2023.

/s/W. Louis Sands W. LOUIS SANDS, SR. JUDGE UNITED STATES DISTRICT COURT